

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2323 of 1985

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of
the judgment ?

Whether this case involves a substantial question of
4 law as to the interpretation of the constitution of
India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BALVANTRAY MADHAVLAL BHATT

Versus

STATE OF GUJARAT AND OTHERS

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Appearance :

MR CB DASTOOR for the Petitioner

Ms Trusha Patel, Assistant Government Pleader for Respondents 1 - 2.

RULE SERVED for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 30/11/2006

ORAL JUDGMENT

By filing this petition the petitioner has prayed that the action of
the department in promoting the petitioner's junior in the cadre of

Taluka Development Officer (Development Cadre Grade-II) is arbitrary and illegal. It is prayed that the Department be directed to promote the petitioner with effect from 17.1.1985 on which date his junior was promoted in the aforesaid cadre. The petitioner has prayed for deemed date of promotion on the said post. It is the case of the petitioner that he joined the services in the Department as Agricultural Assistant in June 1956. On formation of the Panchayat Raj the petitioner was allocated to District Bhuj-Kutch. The petitioner was promoted in the higher cadre of Agricultural Supervisor in June 1961 and he was confirmed on the said post in March 1982. As per the averments made in the petition on the date of filing of the petition, the petitioner was working as Agricultural Extension Officer at Taluka Panchayat, Absadasa, District Kutch. It is the case of the petitioner that the respondents published seniority list in connection with the promotion in the development service, Class-II. In the said seniority list published on 7th April, 1980 the petitioner was shown at serial No.225. The said list was subsequently amended in March 1984 wherein the petitioner was placed at serial No.179A. The grievance of the petitioner is that juniors to the petitioner were promoted in the development cadre Class-II to the post of Taluka Development Officer by order dated 17th January, 1985 and the claim of the petitioner was bypassed. The grievance of the petitioner is that he should have been considered for the purpose of promotion. It is also the say of the petitioner that even though he was subjected to a criminal case under the Prevention of Corruption Act in the year 1986, he was acquitted subsequently. The petitioner, therefore, has challenged the action of the Department in not promoting him as TDO and has also claimed deemed date of promotion from the date on which his juniors were promoted. It is also the say of the petitioner that the petitioner is working as Extension Officer (Agriculture) since more than 24 years yet, he has not been promoted. The petitioner has, therefore, filed the

present petition for getting the appropriate relief in the cadre of Taluka Development Officer.

It is required to be noted that the petitioner has not joined any of his juniors as respondents in the present petition against whom he wants deemed date of promotion. Without joining the concerned persons as party-respondents no relief can be given to the petitioner in this regard. Apart from that, initially by an order dated 5.9.2000 this petition was disposed of while permitting the petitioner to make representation in this regard. It is pointed out to the Court that his representation was rejected in the month of March 2001, yet, the petitioner waited for long and thereafter filed the note. The learned Single Judge of this Court revived the petition by his order dated 21.06.2004.

Ms Trusha Patel, learned Assistant Government Pleader for the Department submitted that the petitioner has retired since long. She submitted that no relief can now be granted to the petitioner as he has moved the revision application after a period of more than 3 years. She has further submitted that as per the recruitment rules the Extension Officer (Agriculture) is not eligible to get the promotion as Taluka Development Officer as the same is not in the feeder cadre and he cannot get promotion on the said post. In this regard, she has relied upon the affidavit-in-reply filed by one N.P. Vachhani, Under Secretary of the concerned Department. The petitioner is also informed about the said fact by letter addressed to him in March 2001. Ms Patel further pointed out that the petitioner has already retired in the month of June 1992. By way of superannuation. It is submitted that the petitioner was also subjected to punishment of warning by an order dated 28th July 1979 in the matter dealing corrugated sheets. The said aspect is highlighted at page 40 of the affidavit-in-reply. Ms Patel pointed out that the

petitioner was already promoted by an order dated 29.12.1989 as Agricultural Officer, Grade-I. The petitioner accepted the said promotion and resumed his duty on the promotional post on 5.1.1990 from which he has retired in the month of June 1992.

I have heard both the learned advocates and I have also gone through the petition as well as the affidavit filed by the Department. It is not in dispute that the petitioner has already been promoted on the post of Agricultural Officer, Grade-I which has been accepted by the petitioner and the petitioner has retired from the said post. Therefore, now the petitioner cannot make any grievance that he is required to be given deemed date of promotion on the post of Taluka Development Officer. Even as pointed by Ms Patel, the petitioner is not eligible to be promoted as he was not in the feeder cadre since he was working as Agricultural Officer. Considering the aforesaid aspects, there is absolutely no substance in this petition. Hence, the petition is dismissed. Rule is discharged with no order as to costs.

(P.B.MAJMUDAR, J.)

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